

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

v.

ERIC JAEGER AND JERRY A. SHANAHAN

Defendants.

No. 01:07-00039-SM

JOINT MOTION TO CONTINUE TRIAL DATE

Pursuant to Local Rules 7.2(d) and 39.2, the parties respectfully move jointly to continue the trial date in this action, presently set for November 14, 2012. Plaintiff U.S. Securities and Exchange Commission (“SEC”) and Defendant Eric Jaeger request this continuance, and further that the Court suspend consideration of pending motions as between Mr. Jaeger and the SEC, to allow the SEC an opportunity to conclude its review of a proposed settlement. The SEC and Defendant Jerry Shanahan request this continuance in order to allow for the completion of briefing and the Court’s consideration of Mr. Shanahan’s further motion for summary judgment filed this day in response to the four issues set forth in the Court’s September 26, 2012 Order denying Mr. Shanahan’s initial Motion for Summary Judgment without prejudice and inviting re-filing.

As grounds for this motion, the parties state:

1. Trial is set to commence on November 14, 2012. Two claims remain pending against Mr. Jaeger: (i) Aiding and Abetting a scheme under Rule 10b-5(a) and (c) with respect

to three transactions (Count III); and *(ii)* Noncompliance with the books/records requirements under Rule 13b2-1with respect to one transaction (Count IV).

2. Last week, Mr. Jaeger and trial counsel for the SEC (associated with the SEC's Denver Regional Office) negotiated a settlement of this matter that, if consummated, would resolve this matter as to Mr. Jaeger.

3. Although the SEC's Denver Regional Office has recommended the settlement, it remains subject to the review of the SEC senior staff in Washington, D.C., which the undersigned understands is unlikely to act on the recommendation prior to the October 30, 2012 final pretrial conference. Thereafter, any settlement would need to be placed on the calendar of the Commission itself for approval and thereafter, of this Court. Accordingly, the SEC and Mr. Jaeger respectfully submit that it would best serve the interests of justice and promote judicial efficiency to defer consideration of those motions, and any trial in this matter, until the settlement process can run its course.

4. The following claims remain against Mr. Shanahan: *(i)* Section 17(a)(1) of the Securities Act for the Accton and Tech Data Canada transactions; *(ii)* Section 17(a)(3) of the Securities Act for the Accton and Tech Data Canada transactions; *(iii)* Section 10(b) of the Exchange Act and Rule 10b-5(a) and (c) thereunder for the Accton and Tech Data Canada transactions; and *(iv)* Aiding and abetting a violation of Section 10(b) and Rule 10b-5(a) and (c) thereunder for the Accton and Tech Data Canada transactions.

5. In its September 26, 2012 Order regarding Mr. Shanahan's initial Motion for Summary Judgment, the Court invited re-filing of that motion, with supplemental briefing, to address four discrete issues. This day, Mr. Shanahan has filed his further Motion for Summary Judgment with such supplemental briefing. Accordingly, as a matter of efficiency and orderly disposition of this case, and to allow the Court sufficient opportunity to consider the

supplemental briefing requested, Mr. Shanahan and the SEC request that the Court continue the trial of the action between them.

Wherefore, the parties respectfully request that the Court:

1. Remove this matter from the November 14, 2012 trial calendar;
2. Stay its consideration of Mr. Jaeger's pending Motion for Summary Judgment and the SEC's and Mr. Jaeger's Motions *in Limine* (Docket Nos. 302, 315, 323-326, 328-329, and 331);
3. Order Mr. Jaeger and the SEC to update the Court on the status of the settlement process on or before a date to be determined by the Court;
4. Set a briefing schedule of November 19, 2012 (LR 7.1 (b)) for the SEC's Opposition to Mr. Shanahan's further Motion for Summary Judgment, December 3, 2012 (LR7.1(e)) for Mr. Shanahan's Reply to the SEC's Opposition, and a date to be determined by the Court for a hearing on the motion;
5. Provide any further or additional relief as justice may require.

Respectfully submitted,

U.S. SECURITIES AND EXCHANGE COMMISSION

/s/ Nancy J. Gegenheimer

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October 19, 2012

CERTIFICATION PURSUANT TO LOCAL RULE 7.2(d)

I, Jonathan A. Shapiro, hereby certify that, in accordance with Local Rule 7.2(d), on October 18, 2012 I notified Defendant Eric Jaeger of this request to continue the trial date currently set for November 14, 2012.

/s/ Jonathan A. Shapiro
Jonathan A. Shapiro

CERTIFICATION PURSUANT TO LOCAL RULE 7.2(d)

I, Andrew Good, hereby certify that, in accordance with Local Rule 7.2(d), on October 19, 2012 I notified Defendant Jerry Shanahan of this request to continue the trial date currently set for November 14, 2012.

/s/ Andrew Good
Andrew Good

CERTIFICATE OF SERVICE

I, Elizabeth H. Skey, hereby certify that Defendant Eric Jaeger's Motion to Continue, filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on October 19, 2012.

/s/ Elizabeth H. Skey
Elizabeth H. Skey

Dated: October 19, 2012